

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

**CIVIL CONFERENCE
MINUTE ORDER**

BEFORE: A. KATHLEEN TOMLINSON
U.S. MAGISTRATE JUDGE

DATE: 1-29-2014
TIME: 4:43 p.m. (3 minutes)

Genometrica Research Inc. v. Gorbovitski et al., CV 11-5802 (ADS) (AKT)

TYPE OF CONFERENCE: **STATUS CONFERENCE**

APPEARANCES: Plaintiff Panagiota Tufariello
Robert Kenney
Nicholas B. Malito

Defendant Arthur Morrison
Gregory Koerner

FTR: 4:43-4:46

THE FOLLOWING RULINGS WERE MADE:

Today's discovery conference has been re-scheduled on multiple occasions at the request of the parties since last August. It was the Court's expectation that the parties would be utilizing this time productively to complete discovery and to resolve their numerous disputes and requests for sanctions which have been repeatedly brought before the Court. On multiple occasions throughout the arduous discovery process in this action, the Court has attempted to get the parties to engage in a various good faith meet-and-confers pursuant to their obligations under Local Civil Rule 37.3, with little success. The Court has spent an inordinate amount of time with counsel attempting to resolve endless disagreements. On several occasions, counsel for the parties have been directed to work out their differences and to bring only the truly outstanding unresolvable issues to the Court for intervention. This has resulted in submissions of hundreds of pages of discovery disputes to the Court, often with the same disagreements the parties were previously directed to resolve. Most recently, defendants submitted binders of documents in the hundreds of pages to the Court, expecting the Court to act as an ongoing referee in matters that are capable of resolution by the parties if they were able to put differences aside and focus on the task at hand. It appears that the litigants are incapable of problem-solving among themselves and expect the Court to render a decision on every single document request and interrogatory which was served in this case. The Court's patience is exhausted at this juncture based on the quite evident lack of movement by the parties toward completing the necessary discovery in this case in addition to the virtual absence of cooperation. This Court previously cautioned counsel for both sides that if the parties were incapable of paring down their disagreements and resolving their disputes, then the Court would consider the appointment of a Special Master to oversee and resolve the disputed issues. That time has come. The Court will appoint a Special Master in this case to monitor and resolve the discovery disputes between the parties. The fees and costs incurred for the Special Master's time in doing so will be borne equally by both sides. The Court will make the appointment expeditiously and will issue a separate Order to that end.

SO ORDERED

/s/ A. Kathleen Tomlinson
A. KATHLEEN TOMLINSON
U.S. Magistrate Judge